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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

Report by the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to General Assembly resolution 67/120, in which the Assembly requested the Secretary-General to report to the Assembly at its sixty-eighth session on the implementation of the resolution. The report focuses on the different ways in which the Government of Israel has contributed to the creation and expansion of settlements by controlling the land and granting benefits and incentives to settlers. It also addresses the failure of the Government of Israel to maintain public order and the lack of accountability for settler violence. In addition, the report includes an update on Israeli settlement activities in the occupied Syrian Golan. The report covers the period from 1 July 2012 to 30 June 2013.

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I. Introduction

1. In its resolution 67/120, the General Assembly expressed grave concern about the continued settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan by Israel, the occupying Power, in violation of international humanitarian law and relevant United Nations resolutions, among other things. The Assembly recalled the Declaration of Principles on Interim Self-Government Arrangements of 13 September 1993 (see A/48/486-S/26560, annex) and the subsequent implementation agreements between the Palestinian and Israeli sides as well as the obligations contained in the Quartet road map to a permanent two-State solution to the Israeli-Palestinian conflict, emphasizing its call for a freeze on all settlement activity, including so-called natural growth, and the dismantlement of all settlement outposts erected since March 2001. The Assembly also expressed grave concern about incidents of violence, destruction, harassment, provocation and incitement by armed Israeli settlers in the Occupied Palestinian Territory, including East Jerusalem, against Palestinian civilians and their properties, and called for the prevention of all acts of violence, destruction and provocation by Israeli settlers against them. In relation to both the Occupied Palestinian Territory and the occupied Syrian Golan, the Assembly reiterated its demand that Israeli immediately and completely cease all settlement activities and, in that regard, called for the full implementation of all the relevant resolutions of the Security Council, including, inter alia, resolutions 446 (1979), 452 (1979), 465 (1980), 476 (1980) and 1515 (2003).

2. The present report is submitted in response to the request of the General Assembly in resolution 67/120. The reporting period is from 1 July 2012 to 30 June 2013, although additional important information from July 2013 is included where relevant. The information contained in the report is based on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and information provided by other United Nations entities in the Occupied Palestinian Territory. The report also contains information received from Israeli and Palestinian non-governmental organizations (NGOs) and media sources. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements (A/64/516, A/65/365, A/66/364 and A/67/375).

3. Previous reports by the Secretary-General have analysed the impact of settlements on the rights of Palestinians, underscored the discriminatory nature of the policies and practices of promoting settlements in the West Bank, including East Jerusalem, provided updates on settlements, and explored specific concerns, such as settler violence and the impact of the wall on Palestinian communities. The present report indicates that the Government of Israel has played a leading role in the creation and expansion of settlements by controlling the land and granting benefits and incentives to settlers, and through omissions, such as the failure to maintain public order and ensure accountability for Israeli settlers. The report analyses the impact of these actions and omissions on the human rights of Palestinians. Further, the report includes an update on Israeli settlement activities in the occupied Syrian Golan.

II. Legal background

4. As the Secretary-General has pointed out in previous reports, international humanitarian law and international human rights law apply to the actions of Israel in the Occupied Palestinian Territory (see A/67/375, para. 4). The Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949 (Fourth Geneva Convention) and the Hague Regulations[1] set out the responsibilities of Israel in its capacity as the occupying Power in the Occupied Palestinian Territory. The applicability of the Fourth Geneva Convention and, notably, article 49 to the Occupied Palestinian Territory was affirmed by the International Court of Justice[2] and has been reaffirmed by the Security Council (resolutions 799 (1992) and 1860 (2009)), the General Assembly (resolutions 66/79 and 67/121) and the Human Rights Council (resolutions 19/17 and 22/28). Article 49 of the Fourth Geneva Convention establishes that the "Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". In addition, the International Court of Justice affirmed that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, have been established in breach of international law (see A/ES-10/273 and Corr.1, para. 120).

5. In the Occupied Palestinian Territory, Israel is also bound by international obligations contained in the human rights treaties that it has ratified (see A/67/375, para. 5). Israel has disputed the application of international human rights treaties to the Occupied Palestinian Territory. However, United Nations treaty bodies responsible for reviewing the compliance of States with human rights treaties have consistently reiterated that Israel is obliged to implement its human rights obligations in the Occupied Palestinian Territory.[3] This has been confirmed by the International Court of Justice (see A/ES-10/273 and Corr.1, paras. 102-113).

III. Overview

6. In September 1993 the Government of Israel and the Palestine Liberation Organization (PLO) signed the so-called Oslo Accords, which temporarily divided the West Bank into three administrative zones, referred to as Areas A, B and C. This territorial division continues to be used in the West Bank. Area A, which comprises 18 per cent of the territory of the West Bank, includes mainly the major Palestinian cities, and is under Palestinian security and civil authority. Area B, 21 per cent of the area of the West Bank, comprises most Palestinian rural communities, in which civil authority is under the Palestinian Authority, while security responsibilities are under Israeli authorities (initially joint security control). Area C, approximately 61 per cent of the area of the West Bank, is under almost full Israeli military and civilian authority, including with respect to law enforcement and the building and planning regimes.

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[1] The Hague Regulations are annexed to the Hague Convention Respecting the Law and Customs of War on Land of 18 October 1907 (Convention IV).

[2] Advisory opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, of 9 July 2004 (A/ES-10/273 and Corr.1), para. 101.

[3] See concluding observations contained in documents CERD/C/ISR/CO/14-16, para. 10; and CRC/C/ISR/CO/2-4, para. 3.

7. On 28 September 1995, the Interim Agreement on the West Bank and the Gaza Strip was signed by Israel and PLO. It details the steps that Israel and PLO were committed to take and the arrangements between them for the interim period of negotiations. Final clause 7 of annex XXXI of the Interim Agreement provides that "Neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations". Final clause 8 of annex XXXI adds that "The two parties view the West Bank and Gaza Strip as a single territorial unit, the integrity and status of which will be preserved during the interim period".

8. Twenty years after the Oslo Accords were signed, many of the commitments contained therein remain unfulfilled. During the reporting period, Israeli settlements in the West Bank, including East Jerusalem, have grown continuously. According to the Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory, between 1967 and December 2012, Israel established around 150 settlements in the West Bank, including East Jerusalem; 18 of them were established after 1993.[4] In addition, some 100 so-called outposts[5] were erected by settlers, most of them after the signing of the Oslo Accords.[6]

9. It is difficult to estimate the amount of Israeli public resources involved in the construction and expansion of settlements in the Occupied Palestinian Territory because allocations to settlements are not specified in the national budget. Most items of the budget are worded in a general way without a geographical breakdown and without listing the communities to which the resources are allocated.[7] Even the State Comptroller stated that it was not possible to identify the portion of the budget directed to the West Bank.[8] In addition, information on State investments made through the Settlements Division of the World Zionist Organization, whose role is to assist the Government in establishing settlements, including in the Occupied Palestinian Territory,[9] is not public.

10. Estimations of the current settlement population in the West Bank, including East Jerusalem, range between 500,000 and 650,000 (see A/67/375, para. 7). The settler population living in the West Bank (excluding East Jerusalem) has almost

[4] According to Peace Now, 11 settlements were established in East Jerusalem after 1993: Ramat Shlomo (1994), Shimon Hatzadik (2001), Emek Zurim (2003), Hashalom Forest (2006), Beit Hachoshen (2006), Ma'ale Zeitim (1998), Beit Yonatan (2006), Kidmat Zion (2006), Jabel Mukabber (2010), Nof Zion (2004) and Mosrara East (2004). Seven settlements were established in other parts of the West Bank after 1993: Bruchin (1999), Har Shmuel (1998 — officially part of Givaat Ze'ev), Kfar Ha'oranim (1998), Modi'in Ilit (1996), Negohot (1999), Nirit (expanded into the West Bank around 2004) and Sansana (1999).

[5] Outposts are settlements which although often established with some kind of Government support are not officially recognized under Israeli law.

[6] According to Peace Now, 3 out of 100 outposts were established before 1993: Tal Menashe (1991), Nerya (officially part of Talmon — 1991), and Shvut Rachel (1991).

[7] B'tselem, "By hook and by crook, Israeli settlement policy in the West Bank", July 2010, available from www.btselem.org.

[8] State Comptroller report 54B, 2004.

[9] The Sason report (2005), commissioned by the Israeli Government, states: "The Settlement Division is a part of the World Zionist Organization, which is a settling body, according to a government resolution. The Division's role is to assist the government in establishing Israeli settlements in Judea, Samaria and Gaza. Its full budget comes from State treasury"; available from www.mfa.gov.

tripled since 1993.[10] During the past decade, it grew at an average yearly rate of 5.3 per cent, compared with 1.8 per cent for the Israeli population as a whole (see A/67/375, para. 7). The settler population in East Jerusalem also grew by approximately one third between 1993 and 2012.[11] Since the signature of the Oslo Accords, there has been an increase of approximately 270,000 settlers in the West Bank, including East Jerusalem.

11. Ten years after the Oslo Accords were signed, Israel committed, under the Quartet road map, to freeze all settlement activity, including the "natural growth of settlements", a commitment that has never been fulfilled. Beyond the 10-month partial freeze of settlement activity declared in 2010, no further measures have been taken to meet that commitment. During the reporting period, existing Israeli settlements continued to expand and new settlements were approved. In May 2013, the Government announced its intention to establish four new settlements, Mitzpe Lachish, Givat Assaf, Maale Rehavam and Haroe, by legalizing outposts.[12] It is difficult to obtain accurate official data on the expansion of settlements. The planning process involves several stages, including several approvals from the Minister of Defence. According to the Israeli Central Bureau of Statistics, between January and March 2013, the construction of 865 settlement housing units began in the Occupied Palestinian Territory (excluding East Jerusalem), showing a 355 per cent increase compared with those initiated during the final quarter of 2012.[12]

12. As stated by the Secretary-General in a previous report to the General Assembly (A/66/364), settlement activity and the violence committed by Israeli settlers are linked to most of the human rights violations against Palestinians in the West Bank, including East Jerusalem. For instance, the right not to be discriminated against is violated through the application of separate legal systems. The Committee on the Elimination of Racial Discrimination stated in its concluding observations that Israel should ensure equal access to justice for Palestinians and settlers (see CERD/ISR/CO/14-16, para. 27). As explained in paragraphs 31 to 34 below, another example of discrimination against Palestinians is the restrictive regime for Palestinian construction in the West Bank, including East Jerusalem. As a result of the restrictions, Palestinians often build without permits, which puts them under a constant threat of eviction and demolition (see A/66/364, para. 10). During the reporting period, 602 Palestinian structures were demolished, displacing 894 people, including 470 children.

13. Palestinians see their freedom of movement restricted by hundreds of physical barriers and the wall which, upon completion, would render some 9.4 per cent of West Bank territory on the western side of the wall inaccessible to Palestinians, except for those with special permits or through a process of "prior coordination" (see A/67/375, para. 41). In his previous report, the Secretary-General highlighted that the vast majority of limitations to the rights of Palestinians are related to the presence of settlements, including to ensure the security of settlers and to facilitate their movement through the West Bank, and to ensure that the normal daily life of settlers is not disrupted (ibid., paras. 41 and 44).

[10] According to Peace Now, the population grew from 111,600 in 1993 to 341,418 in 2012.

[11] According to Peace Now, there were 150,000 settlers in East Jerusalem in 1993. The Office for the Coordination of Humanitarian Affairs estimated their population at 200,000 in 2012.

[12] Information provided by Peace Now.

14. Palestinians in the West Bank, including East Jerusalem, are subject to frequent search and arrest operations, which in many cases are linked to Israeli security measures carried out with the goal of protecting settlers and their property (ibid., para. 43). These operations are often linked to stone-throwing by Palestinian children at settlers' vehicles. Popular protests against restrictions to movement and access relating to settlements, construction of the wall and the takeover of land and resources by settlers frequently result in clashes between Palestinian protestors and Israeli forces, causing Palestinian civilian casualties. It appears that Palestinian children are particularly affected by operations by Israeli security forces in the vicinity of settlements or on roads used by settlers or the army that run by Palestinian villages (see A/HRC/22/63, para. 48). The rights of Palestinian children to liberty, security of person and fair trial are often violated from the time of their arrest throughout detention, trial and sentencing, as recently reported by the United Nations Children's Fund (UNICEF).[13] The Committee on the Rights of the Child also expressed concern about the practice of torture and ill-treatment of Palestinian children arrested, prosecuted and detained by the Israeli authorities (see CRC/C/ISR/CO/2-4).

IV. Israel's leading role in the construction and expansion of settlements

15. Since 1967, the State of Israel has directly participated in the planning of settlements through provisions in its planning policies, in particular its "basic policy guidelines".[14] These guidelines are the primary policy instrument of Israeli administrations and are presented by each Government to the Knesset for endorsement. Following the signing of the Oslo Accords, policy guidelines focused on the consolidation and development of existing settlements, indicating that no new settlements would be established. Israel has also supported settlements in the Occupied Palestinian Territory through other means, including by legalizing outposts, controlling land in which settlements are subsequently built, providing them with infrastructure and public services, granting benefits and incentives to settlers and sponsoring economic activities.

16. Israel has participated in the expansion of settlements through support to outposts. According to the Sasson report, which was commissioned by the Government of Israel in 2005, a substantial number of outposts were built with the involvement of State authorities and public bodies, including through the provision of funds, infrastructure and security. The report concluded that this situation seriously endangered the rule of law and recommended that the Government take the necessary measures to change this reality.[15] While a few evacuations took place

[13] UNICEF Occupied Palestinian Territory, "Children in Israeli military detention: observations and recommendations", 6 March 2013; available from www.unicef.org. Israeli authorities have expressed their willingness to implement the recommendations of UNICEF.

[14] For an analysis of the main trends of Israeli policy guidelines regarding the support to settlements in the Occupied Palestinian Territory, see A/HRC/22/63, annex I.

[15] In contrast, the Levy report also commissioned by the Government in 2012, recommended "legalizing", in Israeli law, most unauthorized settlement outposts in the West Bank (*Haaretz*, 15 August 2012).

following orders from the Israeli High Court of Justice,[16] the majority of outposts remain in place and new ones continue to be established.

Control of land

17. Israel has used different methods to seize land for settlement, amounting to approximately half of the West Bank.[17] Only limited information is available in the public domain on this issue. In some cases, even the State Comptroller is not granted access, while, in other cases, information provided by different government bodies is contradictory.[7] The requisition of Palestinian-owned land for military needs was used mainly between 1967 and 1979, on the premise that it was "required for essential and urgent military needs".[18] Under international law, the occupying power has the right to requisition private property under certain circumstances.[19] Article 46 of the Hague Regulations establishes that private property cannot be confiscated, and article 52 states that requisitions can be made only for the needs of the army of occupation. In most cases of requisition of Palestinian land for military needs in connection with settlements, these conditions are not fulfilled because settlements are not established to exclusively satisfy the needs of the Israeli army. The International Court of Justice confirmed this when it declared that requisitions of land for military needs in relation to the construction of the wall were illegal under international law (see A/ES-10/273 and Corr.1, para. 124).

18. Following the decision of the Israeli High Court of Justice on the *Elon Moreh* case of 1979,[20] in which the Court ordered the return of seized private property to its owners, the use of military requisition decreased. However, it has often been used to allow for the construction of bypass roads,[21] permitting settlers to travel through the West Bank without passing through Palestinian towns (see A/63/519). It is doubtful that these roads qualify as military needs in accordance with the provisions of the Hague Regulations.

19. Israel made use of land requisitioned for military needs for the construction of the wall. Some 85 per cent of the wall runs inside the West Bank, leaving almost half of Israeli settlements between the Green Line and the wall's route, including about 85 per cent of the entire settler population. The International Court of Justice indicated that the wall's route has been traced in such a way as to include within this area the great majority of the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) (see A/ES-10/273 and Corr.1, para. 119). It therefore appears likely that land requisition in connection with the wall was intended for the expansion of settlements and not to satisfy military needs of the occupying army.

20. The declaration of State land was used mainly during the 1980s and 1990s. Declarations of State land are based on civilian laws in place before the occupation,

[16] In 2012, Ramat Migron and Ulpana outposts were evacuated.

[17] 43 per cent of the West Bank is allocated to settlement local and regional councils.

[18] This was a standard formula used in military orders. See B'tselem, "Land grab: Israel's settlement policy in the West Bank", May 2002, available from www.btselem.org.

[19] Commentary on art. 53 of the Fourth Geneva Convention by Jean Pictet, ed., *The Geneva Conventions of 12 August 1949* (Geneva, International Committee of the Red Cross, 1958).

[20] *Duweikat v. Government of Israel*, HCJ 390/79 (1979).

[21] B'tselem, "Land grab: Israel's settlement policy in the West Bank", May 2002, available from www.btselem.org.

in particular the Ottoman Land Law of 1858. According to the interpretation of these laws by Israel, the occupying Power is allowed to take possession of uncultivated land (see A/63/519). It appears that the process to declare State land is not in accordance with the standards of due process and undermines the right to an effective remedy. Declarations of State land can be appealed within 45 days after the declaration. However, Palestinian owners often are not duly informed of the declaration,[7] which hinders the possibility of filing an appeal. The Military Appeals Committee is the Civil Administration body responsible for deciding on the appeals against declarations of State land. Members of the Committee are appointed by the Israeli Defense Forces (IDF), which raises serious questions about the independence and impartiality of such a body, since it reviews decisions made by the military. Moreover, the decisions of the Committee are not binding[21] and may thus be revoked, depriving Palestinians of an effective remedy against declarations of State land. Approximately 16 per cent of the West Bank has been declared State land and is used for settlements, in particular around areas built up by Palestinians.[7]

21. Subsequent to the signing of the Oslo Accords, Israel employed an alternative method to expropriate Palestinian land, based on the Jordanian land law permitting expropriations for the "benefit of the population" (see A/63/519, para. 20). Israel amended this law through military orders, assigning the authority to expropriate to the Civil Administration, whose decisions can be appealed before the Military Appeals Committee (ibid., para. 21). Observers have noted that the Civil Administration does not adequately inform Palestinians about decisions involving their property in relation to expropriation for public needs. It has been alleged that it only posts maps of the intended expropriation in its offices, in the Israeli-Palestinian District Coordination Offices[22] and in liaison offices.[7]

22. The expropriation for public needs has not been frequently used for the establishment and expansion of settlements, because the law requires that the expropriation is made for a public purpose, that is, also benefiting Palestinians.[21] It has been used mainly for building infrastructure, including roads to connect settlements to one another and to Israel, claiming that Palestinians also benefit from them.[7] An exception is the Ma'ale Adumim settlement, which was established east of Jerusalem on approximately 3,500 hectares of Palestinian land expropriated for public needs in the 1970s.[23] Following the expropriation, the boundaries were declared by military order. During the 1980s and 1990s, the boundaries were expanded by approximately 1,300 hectares through declarations of State land.[24]

Benefits and incentives granted to settlers

23. Following the signing of the Oslo Accords, there was a reduction in the trend of creation and rapid expansion of settlements.[25] However, in June 1996, the

[22] District Coordination Offices were established by the Interim Agreement on the West Bank and the Gaza Strip as a coordination mechanism between Israel and the Palestinian Authority, mainly for security issues located in each district of the West Bank and Gaza.

[23] B'tselem, "The hidden agenda: the establishment and expansion plans of Ma'ale Adumim and their human rights ramifications, December 2009, available from www.btselem.org.

[24] B'tselem, "Acting the landlord: Israel's policy in Area C", June 2013, available from www.btselem.org.

[25] The majority of settlements were established between 1967 and 1992 with a peak between 1988 and 1992. According to B'tselem, between 1993 and 2009 the number of settlements varied between 120 and 123.

Government issued its basic policy guidelines, which stated that "settlement in the Negev, the Galilee, the Golan Heights, the Jordan Valley, and in Judea, Samaria (West Bank) and Gaza is of national importance to Israel's defence and an expression of Zionist fulfilment. The Government will alter the settlement policy, act to consolidate and develop the settlement enterprise in these areas, and allocate the resources necessary for this".

24. Successive Governments of Israel periodically set a plan designating villages and towns as national priority areas in Israel and the Occupied Palestinian Territory. These areas are entitled to certain benefits, including Government incentives supporting housing, education, industry, agriculture and tourism, and support given to local authorities. National priority areas can be at level A or B; the former receives the maximum benefits in all fields, whereas the latter receives similar benefits in a smaller amount. In 1998, the Government approved Decision No. 3292, which defined many Israeli settlements in the Occupied Palestinian Territory as national priority area level A. Benefits included benefits in housing, education and taxes significantly lower than those established for communities within Israel proper (see A/HRC/22/63, annex I).

25. In 2006, the High Court of Justice declared that benefits and incentives on education granted to national priority areas were biased and discriminatory and ordered their cancellation.[26] The Court recommended that the Government make an "overall correction" of all benefits granted to national priority areas. This was purportedly done in 2009, when the Law on National Priority Areas was enacted.[27] Some sources report that the law contradicts the decision of the High Court because it preserves the broad discretion of the Government to allocate State resources to national priority areas. In 2013, the Government approved a new list of such areas, including 91 settlements in the Occupied Palestinian Territory. The list includes an additional nine new settlements, including three former outposts, Bruchin, Sansana and Rechalim, legalized in 2012 (see A/67/375, para. 6).

26. The Ministry of Housing and Construction and the Israel Land Administration grant incentives and benefits to settlers that reduce housing costs in settlements. Settlements classified as national priority area A can get a discount of up to a 69 per cent of the value of the land. In addition, the Government assumes up to 50 per cent of the development costs of construction.[7] The Government also provides mortgage subsidies, including an automatic subsidized mortgage (for national priority area A) or association mortgages, a second double mortgage subsidized by the State. According to the State Comptroller, between 1997 and 2002, the Ministry invested NIS 419 million in mortgages for apartments located mainly in West Bank settlements.[8]

27. Education benefits granted by the Ministry of Education include advantages for teachers living in settlements, such as rent subsidies, subsidies for travel expenses related to training and payment of the employer's share in a teacher's fund for advanced training, among other things. Benefits for settlers include an exemption from tuition fees for preschool children, subsidies for matriculation

[26] *High Follow-Up Committee for Arab Citizens of Israel v. The Prime Minister of Israel, Judgment* (2006), HCJ-11163/03.

[27] Through the additional section to the Economic Arrangements Law entitled "National Priority Areas" adopted in 2009. See Adalah, "On the Israeli Government's new decision classifying communities as national priority areas" (2010).

examination fees and privileges in scholarships. Local authorities in settlements are also entitled to benefits in education, including an allocation for additional school tuition hours, full funding for installing computers in schools, an additional budget for schools with special needs and a grant of NIS 100,000 to each community centre.[26] Furthermore, the Free Compulsory Education Law from 3 years of age is partially implemented in national priority area A, while its full implementation has been postponed until 2019. Schools and kindergartens have an extended school day, and 90 to 100 per cent of school transportation costs are covered by the State.[7]

28. The Ministry of Agriculture classifies communities in the Jordan Valley and remaining settlements as administrative development areas "A", which entitles them to grants, subsidies and tax benefits on profits.[7] The Ministry also indemnifies farmers in settlements from European Union customs imposed on their products.[28]

29. Businesses have benefited from settlements directly and indirectly. Economic activities in industrial zones located in settlements are increasing because of several incentives, including tax breaks, low rents and low labour costs. Banks are contributing by providing financial services to enterprises located in settlements and special loans for building projects (see A/HRC/22/63, paras. 96 and 97). The Industry and Trade Ministry provides benefits to factories in settlements, including 24 per cent of the investment, income tax benefits, increased grants for research and assistance in hiring workers.[7] Industry, tourism and trade activities in settlements have a 69 per cent reduction on land leases.

Israeli policies in Area C

30. Approximately 61 per cent of the occupied West Bank is classified as Area C under the Oslo Accords, and is home to approximately 150,000 Palestinians. Some 325,000 Israeli settlers live in around 135 settlements and 100 outposts in Area C. Some 70 per cent of Area C is off limits to Palestinians, as it is placed within the jurisdictional boundaries of the settlements' regional and local councils. Palestinians are not allowed to construct on State land, in military firing zones, nature reserves, the buffer zone around the wall and alongside major roads, leaving them with only 30 per cent of Area C where construction is not a priori prohibited,[24] but various restrictions make it virtually impossible for Palestinians to obtain a permit for building homes or infrastructure in the remaining 30 per cent (see A/66/364, para. 19).

31. In order to obtain a building permit, any construction must be consistent with an approved planning scheme. Nevertheless, it is reported that, in practice, Palestinian construction is allowed only within the boundaries of a detailed or special Civil Administration plan, and those plans cover less than 1 per cent of Area C, much of which is already built up. In areas with no Civil Administration plans, Palestinian construction is permitted but it must adapt to the narrow building possibilities allowed by plans approved under the British Mandate in the 1940s, which classify the majority of Area C as an agriculture zone, making them inadequate to deal with current planning needs of the Palestinians.

[28] In 2010, the European Court of Justice ruled that goods manufactured in Israeli settlements in the West Bank cannot be imported into the European Union duty free, similar to all other products made within Israel's 1967 borders.

32. In addition, Palestinians cannot participate in the planning process. All decisions related to Area C planning are in the hands of the Civil Administration's Higher Planning Council[29] under the authority of the Ministry of Defence of Israel and is composed exclusively of Israeli officials (see A/HRC/22/46/Add.1, para. 66). Modifications by Israel to the Jordanian law in force at the start of the occupation eliminated the participation of Palestinians in the planning process. These modifications to the Jordanian law were of such an extent that Israel exceeded the competence afforded to it, as the occupying Power, to legislate, according to article 43 of the Hague Regulations. Palestinians are not able to provide any input for the zoning, the development of plans and the approval of construction for their communities. They retained only the possibility of presenting objections to plans. In a positive development, the Higher Planning Council has started to receive objections to master plans and has agreed to redraft or review some of them. However, it is reported that such revised plans have yet to be approved or validated.[24]

33. The restrictions on Palestinian construction are extended to infrastructure and services. For instance, over 70 per cent of Palestinian communities in Area C are not connected to any water supply network. In addition, the Civil Administration grants building permits for schools, hospitals, roads and infrastructure only in few villages in which it has approved a master plan. Currently, there are master plans for only 16 out of 180 Palestinian villages entirely located in Area C.[24]

34. In contrast, settlements receive allocations of land, detailed planning and connection to advanced infrastructure. Settlers enjoy full representation in the planning process.[24] Further, planning and construction laws often are not enforced in relation to settlers. The State Comptroller noted in 2013 that this is attributable to the position taken by the Israeli police that investigations of these violations are not under its jurisdiction, while the Civil Administration refuses to investigate them for fear of reactions by settlers. Given that violations of planning and construction laws in the West Bank by settlers are not treated as criminal offences, the authorities only issue administrative demolition orders, which are rarely implemented.

35. In July 2013, the European Union announced the adoption of binding directives that forbid any funding, cooperation, awarding of scholarships, research funds or prizes to anyone residing in settlements. Any contract signed by a European Union country with Israel should include a clause stating that settlements are not part of Israel and therefore not part of the agreement. The media reported that, in response, Israel will refuse to grant new permits or renew existing permits for European Union construction projects in Area C, and will not issue or renew any documents that European Union personnel might need for travel in the West Bank or into Gaza from Israel. This may negatively affect many Palestinians who benefit from European Union projects in Area C.[30]

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[29] This situation obtains despite the fact that the Oslo Accords called for the gradual transfer of power and responsibility in the sphere of planning and zoning in Area C from Israel to the Palestinian Authority.

[30] According to B'tselem, European investment in the planning of Area C communities at present is currently valued at 2.7 million euros.

Impact of Israeli settlement policies on Palestinians' economic, social and cultural rights

36. Some 43 per cent of the land in the West Bank, including almost all land considered as "State land", has been allocated to settlements, including fertile agricultural and grazing lands, water and other natural resources and tourist sites. This, coupled with the responsibility undertaken by Israel for planning and zoning in all of Area C, has significantly decreased the space available for Palestinians to sustain their livelihoods and develop adequate housing and basic infrastructure and services, such as health and education facilities, and therefore directly impinging upon the economic, social and cultural rights of Palestinians.

37. Settlements and settlement related activities seriously jeopardize Palestinians' livelihoods. A case recently monitored by OHCHR illustrates this. The Palestinian Bedouin community of Umm Al Khair (Hebron Governorate) is located a few metres behind the settlement of Karmel, which has recently expanded its boundaries by building new housing units in the area used by the Bedouins of Umm Al Khair to access their grazing lands. Reportedly, Israeli security forces, in support of the Karmel settlers, are enforcing the new self-established boundaries and are preventing the Bedouin Palestinians from accessing their grazing lands, arresting shepherds, and using physical force against them. Lack of access to their grazing lands is increasing the economic hardship of the Bedouin Palestinians of Umm Al Khair.

38. Israel controls all sources of water in the West Bank and prevents Palestinians from exercising effective control over the development and management of the available water resources in the region (see A/64/516, paras. 41-47, and A/67/375, para. 14). A joint water committee was established in the context of the Oslo Accords. While Israel exercises considerable influence in relation to water issues, in principle all decisions regarding water projects are approved by the committee. In practice, however, the Israeli water management system and policies in place discriminate against Palestinians.[31] The Israeli settler population consumes approximately six times the amount of water used by the Palestinian population.[32] Israeli settlers consume per capita a daily average of 369 litres of water for domestic use, while Palestinians on average have access to 70 litres, well below the standard of 100 litres set by the World Health Organization. The Israeli Water Authority has contested this data, stating that Palestinians consume around 190 million cubic metres of water per year, compared with 60 million cubic metres in 1967 and 118 million cubic metres in 1995. The Israeli Water Authority also claims that the Palestinian Authority loses more than 33 per cent of its water owing to faulty water pipes, and that Palestinians do not comply with the Oslo Accords because they do not treat their sewage. Nevertheless, the ability of the Palestinian Authority to address these issues is significantly limited by the need to obtain Israeli approval for repair of the existing water networks or the development of new infrastructure.

39. In terms of the water used for agricultural purposes, the discrepancy between the levels of access to water and water consumption by Palestinians and settlers is

[31] Human Rights Watch, "Separate and unequal, Israel's discriminatory treatment of Palestinians in the Occupied Palestinian Territory" (2010).

[32] Al Haq, *Water For One People Only: Discriminatory Access and Water-Apartheid in the OPT* (Al-Haq Organization, 2013); and *Amnesty International, Troubled Waters: Palestinians denied fair access to water* (London, Amnesty International, 2009).

even greater.[33] Furthermore, settlers in the West Bank confiscate, destroy and hinder access to water, sanitation and hygiene infrastructures in their vicinity, including water springs (see A/67/375 para. 21).

40. Before 1967, agriculture was the biggest employer of Palestinian labour.[34] Confiscation of land and restrictions on access to land and to water are among the main factors that have led to the decline of Palestinian agriculture. Cultivated areas shrunk by 30 per cent from 1965 to 1994, and Palestinian agricultural production amounts to 4.9 per cent of the gross domestic product (GDP), compared with 50 per cent in 1968. The low quantity of water available has forced Palestinian farmers to rely increasingly on rain-fed crops, which are less profitable than irrigated crops. The cost of the forgone opportunity in irrigated agriculture is estimated to be as high as 10 per cent of GDP and 110,000 jobs.[35]

41. Conversely, agriculture is the largest sector of the Israeli settlement economy and Palestinian markets are flooded with agricultural settlement products.[36] Settlers in the Jordan Valley, an area largely off limits for Palestinians, cultivate large areas of land and grow crops that require large amounts of water, using most of the water resources in the area.

V. Failure to maintain public order, settler violence and lack of accountability

42. As previously highlighted by the Secretary-General, Palestinians are often victims of acts of violence by Israeli settlers and Israeli law enforcement forces have in numerous cases failed to protect them against such attacks (see A/67/375, para. 30). Israel has the legal obligation to protect the rights of Palestinians in accordance with international human rights law. In addition, pursuant to article 43 of the Hague Regulations and articles 4 and 27 of the Fourth Geneva Convention, Israel, as the occupying Power, has the obligation to maintain the public order and safety in the Occupied Palestinian Territory and has the obligation to provide Palestinians with all guarantees accorded to protected persons under international humanitarian law.

43. Palestinians continued to be the target of acts of violence by Israeli settlers in the West Bank, including East Jerusalem, putting their security and livelihood at risk. Such acts include physical attacks with different weapons, including batons, knives and live ammunition, and the throwing of stones; destruction and denial of access to property, in particular agricultural lands; and "price tag" incidents.[37] Many of the injuries to Palestinians occurred in the middle of clashes with settlers or were attributable to stone-throwing by Israeli settlers. During the reporting period, 178 Palestinians were injured in acts of violence committed by settlers, out of which 16 were women and 34 were children. This is an increase compared with the period

[33] Al Haq, 2013, see footnote 32 above.

[34] Emergency Water and Sanitation/Hygiene (EWASH), Fact Sheet 14, 2013; and Palestinian Central Bureau of Statistics, "Palestine in figures 2012", March 2013.

[35] World Bank, "The underpinnings of the future Palestinian State: sustainable growth and institutions", Economic Monitoring Report to the Ad Hoc Liaison Committee, 2010.

[36] EWASH, 2013, see footnote 34 above.

[37] Strategy whereby Israeli settlers attack Palestinians and sometimes, IDF, in response to events or actions affecting them, such as the evacuation of outposts or the killing of settlers.

covered in the previous report, during which 147 injuries were reported. Incidents of violence by Palestinians against Israeli settlers also increased; one killing and 80 injuries, including of 10 women and 7 children, were reported.

44. On 17 September 2012, in a case monitored by OHCHR, three Palestinian farmers from Aqraba village were walking home from their olive groves south of Itamar settlement (south of Nablus) when six settlers, masked and armed with rifles and clubs, reportedly attacked them on an agricultural road leading to the village. One farmer was beaten all over his body by two settlers. Another farmer was struck on his left arm, right shoulder, legs and knees and was then hit with a stone in the head. It was reported that the two farmers fell unconscious while settlers continued to attack them. The third farmer managed to get up, run away and call his father for help. When residents from the village arrived, the settlers allegedly had left the area. One victim was hospitalized for two days and the other for three days.

45. During the reporting period, OHCHR monitored cases in which IDF failed to protect Palestinians against settler violence, including cases in which IDF soldiers were present. On 23 February 2013, clashes took place between settlers from the outpost Esh Kodesh and Palestinians of the nearby village of Qusra. Settlers allegedly used live ammunition against Palestinians, causing serious injury to a man. IDF soldiers arrived to the site shortly after the clashes started but reportedly intervened only after settlers started using live ammunition. The soldiers did not detain any of the settlers using firearms; instead, they used tear gas to disperse the Palestinians.

46. In another case monitored by OHCHR, settlers from Yitzhar settlement attacked a neighbourhood of Burin village south of Nablus, on 2 February 2013. Settlers were allegedly masked and had batons, plastic tubes, knives and saws. When village residents gathered to help to protect the families under attack, one settler reportedly shot and injured a 17-year-old boy in the right thigh. An IDF military jeep later arrived on Road 60 and reportedly started firing tear gas at the Palestinians who were clashing with settlers in the area. Clashes continued until IDF allegedly raided the village and carried out security measures against the Palestinian residents until late in the evening. Reportedly, IDF fired tens of tear gas canisters among the houses, which forced some families to leave their homes.

47. Despite the fact that, as reported previously (see A/67/375), incidents of settler violence often take place in Qusra and in villages surrounding the Yithzar settlement, Israel has not taken sufficient effective measures to prevent settler violence in these areas. Recently, the Israeli State Comptroller noted that IDF was not fulfilling its responsibility to maintain public order and safety in the Occupied Palestinian Territory. He indicated that the army's order setting out the forces' obligation to know its mission did not explicitly refer to law enforcement.

48. Settlers also frequently attack and destroy Palestinian property, including homes, cars, olive trees and crops, seriously undermining the livelihoods of Palestinians. In a case monitored by OHCHR in Zeef (Hebron Governorate), on 29 May 2013, settlers stopped their car and allegedly threw a Molotov cocktail at piles of recently harvested wheat, and fled the scene. The extent of the damage was estimated at 13 dunums.

49. Palestinian farmers, whose agricultural lands are located inside or near settlements, face regular restrictions on access and settler attacks against them and

their properties. An estimated 90 Palestinian communities in the West Bank have land within, or in the vicinity of, 55 Israeli settlements and settlement outposts. Access by Palestinians to such land is subject to "prior coordination" with the Israeli authorities, even in cases in which the fencing-off of the land was carried out by settlers without authorization from the Israeli authorities. If "prior coordination" is approved, access is generally granted for a limited number of days during the annual olive harvest, and Israeli soldiers are deployed to protect their access during these periods. In July 2013, approximately 1,000 olive trees were uprooted and destroyed by settlers in Awarta village (Nablus Governorate), in an area where Palestinian farmers are granted only few days of access a year subject to prior coordination with the Civil Administration. During the reporting period, 9,375 trees and saplings were damaged or destroyed by settlers. The monthly average of trees and saplings damaged or destroyed in the first five months of 2013 increased by 51 per cent compared with 2012.

50. Settler violence curtails the right of Palestinian children to education. According to information provided by UNICEF, during the reporting period, settlers from Yitzhar repeatedly attacked schools in the Palestinian village of Urif, affecting some 1,540 students. In addition, 17 incidents of settler violence hindered access to education for more than 5,000 children, with the highest number of incidents registered in Nablus Governorate, followed by those registered in Hebron. Incidents included direct physical attacks against children on their way to school. In four separate incidents, raw sewage from nearby Israeli settlements flooded Palestinian school premises and impeded the normal delivery of the classes in Azzun Bait Amin Secondary School (Qalqiliya).

Lack of accountability

51. The lack of accountability for crimes committed by Israeli settlers persists (see A/66/364, paras. 22-23, and A/67/375, paras. 37-39). The challenge of accountability is analysed in depth in the Secretary-General's report requested by the General Assembly in its resolution 67/121 (A/68/502).

52. An Israeli human rights organization that assists Palestinians in filing complaints in cases of settler violence recently issued a report indicating that, between 2005 and 2013, only 8.5 per cent of the investigations opened in relation to settler violence incidents in the West Bank resulted in indictments. Some 84 per cent of the investigations were closed, owing mainly to investigatory failures, including the lack of identification of suspects and the inability to collect evidence for prosecution.[38] These findings are almost identical to those published since 2005 (see A/67/375, para. 38), indicating that the Israeli authorities have not taken measures to effectively address impunity for settler violence, in spite of several recommendations to that effect made by the Secretary-General (see A/63/519 and A/64/516). The most recent report of the State Comptroller of Israel illustrates the failure of the Israeli authorities to investigate settler violence. According to the Comptroller, Israeli soldiers typically arrive to the crime scene before the police and do not take appropriate action to protect Palestinians and preserve the crime scene. The Comptroller also indicated that soldiers are not trained to handle crime scenes

[38] Yesh Din Monitoring Update, data sheet, "Law enforcement on Israeli citizens in the West Bank", July 2013.

and do not send evidence in time, if at all, to the police, thereby disrupting any investigation and criminal procedures.

VI. Settlements in the occupied Syrian Golan

53. The Government of Israel continues to occupy the Syrian Golan. It is estimated that approximately 20,000 Israeli settlers live in 33 settlements in the occupied Syrian Golan. Israel continues to encourage the growth of the settler population in the Golan through socioeconomic incentives, in clear violation of the Fourth Geneva Convention. Israel also controls scarce water resources in the Golan and distributes a disproportionate share to Israeli settlements through Mekorot, the Israeli national water company, and Mey Golan, a private Israeli company that supplies water directly to Israeli settlers at preferential rates.[39]

54. The Secretary-General is particularly concerned about the exploitation by Israel of natural resources in the occupied Syrian Golan for its own benefit. In this connection, the Secretary-General recalls that, in February 2013, the Israeli Ministry of Energy and Water granted a local Israeli subsidiary of United States-based Genie Oil and Gas a three-year exclusive petroleum exploration licence in the occupied Syrian Golan. The Secretary-General is also concerned at reports of Government-sponsored investments in wind energy turbines. In this regard, regional Israeli authorities granted a permit to a local company in February 2013 for 41 turbines to be installed at Emek Habacha in the northern occupied Syrian Golan. The project is expected to be operational by 2015.[40]

VII. Conclusion and recommendations

55. **Despite past commitments to freeze settlement activity in the Occupied Palestinian Territory, Israel has over the years been playing a leading role in, and supporting and encouraging, the establishment and expansion of, settlements in the West Bank, including East Jerusalem, and the occupied Syrian Golan through many different means. In contravention of its international legal obligations, Israel has failed to ensure public order in the Occupied Palestinian Territory and to protect Palestinians against violent acts committed by settlers. Israel has also failed to ensure accountability for settler violence.**

56. **The Government of Israel must stop playing a leading role in, and supporting and encouraging the establishment and expansion of settlements in the Occupied Palestinian Territory and the occupied Syrian Golan. In particular, it should stop using the requisition and expropriation of land and the allocation of State land for the establishment and expansion of settlements and should halt the granting of benefits and incentives to settlements and settlers. Israel must enforce the existing applicable laws against settlers who take over land, whether it is State land or privately owned. Israel must also refrain from issuing permits and licences to private companies seeking to**

[39] Al-Marsad — Arab Human Rights Centre in the Golan Heights, "Water is life", 2013.

[40] *Wind Power Monthly*, "Israel approves 120 megawatts in the Golan Heights", 5 February 2013.

exploit and profit from the natural resources of the Occupied Palestinian Territory and the occupied Syrian Golan.

57. Israel must bring its legislation, policies and practices into compliance with its international legal obligations and its commitments set out in the road map, including by immediately ceasing the transfer of its population to the Occupied Palestinian Territory and by completely ending all settlement activity. Israel must also implement relevant United Nations resolutions, including Security Council resolution 497 (1981), and withdraw from territories occupied in 1967.

58. Israel must cease its discriminatory policies and practices against Palestinians in the West Bank, including East Jerusalem, including by amending the zoning and planning legislation and processes, in order to ensure the full participation of Palestinians throughout the planning process, in accordance with due process standards, and to ensure their right to an effective remedy.

59. Israel, as the occupying Power, must take all necessary measures to ensure the protection of Palestinians and their property from acts of violence, including through preventive measures. All acts of violence committed by Israeli settlers against Palestinians and their property must be investigated independently, impartially, thoroughly, promptly, effectively and in a non-discriminatory manner. Transparency in investigations should also be ensured. Individuals who are responsible for violations should be prosecuted and victims should be provided with an effective remedy.